

**Memorandum to the File  
Case Closure**

Alleged Misuse of Official Time  
VA New Jersey Health Care System, East Orange, NJ  
(2011-01711-IQ-0105)

The VA Office of Inspector General Administrative Investigations Division investigated allegations that [REDACTED] New Jersey Health Care System (NJHCS), East Orange, NJ, misused official time and that an employee of [REDACTED] improperly signed [REDACTED] VA timecard. To assess these allegations, we interviewed [REDACTED] and other NJHCS employees. We also reviewed time and attendance records, as well as, applicable Federal laws, regulations, and VA policies. (b) (7)(C)

Federal law requires that fulltime VA physicians who engage in outside professional activities for remuneration fulfill a minimum 80-hour biweekly VA tour of duty. 38 USC § 7423. Standards of Ethical Conduct for Employees of the Executive Branch state that public service is a public trust and that each employee has a responsibility to the United States Government and its citizens to put forth an honest effort in the performance of their duties, and employees shall use official time in an honest effort to perform official duties. 5 CFR § 2635.101 and 705.

VA policy states that an employee's supervisor is responsible for maintaining control over attendance, leave, and excused absence of employees under his or her control and for assuring that the certification of time and attendance posting is correct in all respects. VA Handbook 5011, Part III, Chapter 1, Paragraph 2b (4) and (5) (April 15, 2002). VA policy requires employees to be on duty during the full period of their tour of duty, to observe the opening and closing hours established for that tour, and to adhere to established lunch periods. VA Directive 5011/2, Paragraph 2(d) (June 16, 2004). VA policy also requires that sick leave be granted to employees when incapacitated for the performance of their duties because of illness, injury, pregnancy and confinement, for necessary medical, dental, or optical appointments, for the care of ill family members, or when the employee has a contagious disease that would jeopardize the health of others. VA Handbook 5011, Part III, Chapter 3, Paragraph 5a (January 26, 2006). VA policy allows fulltime VHA employees to accept teaching responsibilities in private and public colleges and universities, provided the teaching obligations do not conflict with the performance of their VHA duties, but it requires that the employee be charged leave if remuneration is involved. Id., at Paragraph 9 (January 26, 2006).

*Background*

[REDACTED] was [REDACTED] at NJHCS where he specialized in [REDACTED]. Until mid-May 2011, he was also a faculty member at [REDACTED]. (b) (7)(C)

## *Alleged Misuse of Time*

Time and attendance records reflected that [REDACTED]'s VA tour of duty was Monday through Thursday, 8:00 a.m. to 6:00 p.m. Records also reflected that from April to July 2010, [REDACTED] requested sick leave for most Thursdays; however, he later changed those requests to annual leave. [REDACTED] told us that until April 2010, he worked four 10-hour days, Monday through Thursday, at NJHCS and one 10-hour day, Friday, at [REDACTED]. He said [REDACTED] officials told him that due to stipend increases over the years, they now paid him the equivalent of a half-time employee (18-20 hours per week), and they wanted him to work more hours at [REDACTED]. [REDACTED] said that he then began taking leave on Thursdays from VA to work extra hours at [REDACTED]. (b) (7)(C)

[REDACTED] told us that he initially requested sick leave for those Thursdays to work the extra hours at [REDACTED] because he said that he had 300 hours of sick leave on the books. He also said that he talked to [REDACTED] his supervisor, about using sick leave to work at [REDACTED] on Thursdays, and he said that he thought that [REDACTED] approved the arrangement. He said that, however, [REDACTED] later told him that this was an improper use of sick leave and that he had to take annual leave instead. After discussing the matter with [REDACTED], [REDACTED] told us that he then changed his sick leave requests to annual leave and subsequently used his annual leave to work at [REDACTED] on Thursdays. He said that this arrangement was temporary and that the second week of May 2011 would be his last week working at [REDACTED]. He said that henceforth, he would work exclusively for VA. (b) (7)(C)

[REDACTED] told us that [REDACTED] had a joint appointment at NJHCS and [REDACTED] where [REDACTED] was a tenured professor. [REDACTED] said that, at some point, [REDACTED] officials decided that if they were going to pay people, "they wanted them to be there." Further, he said that in March 2010, [REDACTED] asked if he could take leave on Thursdays to work an additional day each week at [REDACTED] and he told [REDACTED] that he would lose a lot of money if he did not remain at [REDACTED] a little longer. [REDACTED] told us that he told [REDACTED] that he could use leave to work at [REDACTED] on Thursdays as long as he continued to fulfill his responsibilities as the NJHCS [REDACTED] and as long as the situation was short term. (b) (7)(C)

[REDACTED] told us that this arrangement had a "bumpy start." He said that, at first, [REDACTED] did not submit leave requests for Thursdays, and [REDACTED] said that he had to remind [REDACTED] to do so. He said that when [REDACTED] finally began submitting leave requests, he requested sick instead of annual leave. [REDACTED] said that [REDACTED] did not do this "maliciously" but that [REDACTED] thought he was allowed to use sick leave for this purpose. [REDACTED] said that he told [REDACTED] that he could not use sick leave to work at [REDACTED] and instructed him to cancel his sick leave requests and instead submit them as annual leave. Email records reflected that in July 2010 [REDACTED] told [REDACTED] that this was an improper use of sick leave and told him to resubmit his requests as annual leave for those dates. [REDACTED] told us that he reminded [REDACTED] several times and needed to "help him to keep on top of this." He said that ultimately, [REDACTED] did what was required,

and ██████ said that he believed that the issue was resolved. Time and attendance records reflected that in July 2010, ██████ changed his sick leave requests for Thursdays to annual leave requests, as directed. Records, however, reflected that ██████ submitted a number of leave requests late and that they were not reflected on his timecards and records as leave taken. We brought this to the attention of the NJHCS Compliance Officer, and following an internal review, she told us that ██████ took corrective action to ensure that ██████'s leave was properly recorded and charged to his leave balances. The Compliance Officer also recommended that ██████ counsel ██████ on the proper use of leave and the need to submit his leave requests in a timely manner to ensure that his leave was properly recorded and charged.

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The ██████ Administrator told us that she sometimes could not find ██████ during his VA duty hours and that she often received telephone calls from people looking for ██████. As an example, she said that ██████'s timekeeper or other members of the COS's office would call her when ██████ failed to check in with the COS's office by email, as he was required to do each day. The Administrator told us that when she got these calls, she tried to contact ██████ but usually could not find him, because he did not answer his pager or cell phone. However, ██████ his administrative staff, and other physicians in the ██████ told us that, although they sometimes had to "track down" ██████ at the VA complex, they knew of no instance in which ██████ could not be found or was not present at his duty station during his VA duty hours.

(b) (7)(C)

██████ told us that that he heard complaints from his staff that ██████ did not always answer his pager but that he always found ██████ when he needed him. He said that ██████ was among several physicians at NJHCS who were "notoriously bad" at answering their pagers. He further said that he could find ██████ by having someone go look for him and that ██████ was always where he was supposed to be – usually in his "research area."

The ██████ told us that ██████ worked in the VA research facility, which was located in a building on the VA campus but separate from the main medical center. He said that the research building had about 7000 square feet of office and laboratory space; that ██████ had several laboratories and work groups in the building; and that ██████ liked to "roam around" the building, visiting his laboratories. He said that he also worked in the research building and that the Director's office sometimes called him when they were looking for ██████. The ██████ told us that if he could not reach ██████ by cell phone, he would "make a circle" through the building to find him and that he usually found ██████ in one of the laboratories or conference rooms talking to his research staff. Moreover, he said that "virtually every time" the Director's office called, he was able to track down ██████ or contact him by cell phone. He said that the only times that he could not locate ██████ was when ██████ was on leave or away at a conference.

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Another physician in the [REDACTED] told us that he was "the person they usually called" to find [REDACTED] as [REDACTED] had no secretary for several years and the doctors had to be contacted by pager or cell phone. He said that since he always answered his cell phone, people would call him when they needed to reach [REDACTED]. He further said that some areas in the research building did not have cell or pager reception; however, he said that he could find [REDACTED] since he knew the landline numbers of various areas in the research building where [REDACTED] worked. The physician told us that he was usually able to find [REDACTED] within about 5 minutes."

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[REDACTED]'s Administrative Assistant, who was also [REDACTED]'s timekeeper, told us that NJHCS Service Chiefs were required to send a daily email notifying the timekeeper of their status. He said that [REDACTED] as well as other Service Chiefs, often neglected to send the required email and that he or another staff member then had to call them to confirm their status. He said that he never heard any complaints that [REDACTED] was not present at the VA complex during his duty hours; however, he said that he sometimes had trouble finding [REDACTED] when [REDACTED] wanted to see him, adding that "it got to be a joke" in the office. [REDACTED] however, told us that when they needed to find [REDACTED] they would call down to the research building and have one of the other doctors track him down and that "most of the time," they found [REDACTED] who was usually in his laboratory.

A Health Systems Specialist (HSS) told us that sometime their office received telephone calls from people who had trouble finding [REDACTED] and that she found it "odd" that most of these calls were from [REDACTED] Administrator. She said that when this happened, someone in the COS's office would call [REDACTED] on his cell phone, and if he did not answer his phone, they would call the laboratory and have someone track him down. She also said that they were usually able to find [REDACTED] that way, with the exception of one or two times. The HSS told us that [REDACTED] was a researcher, as well as a [REDACTED] and that he spent a lot of time in the research building, which was separate from the main facility. She said that for that reason, it was sometimes harder to find [REDACTED] than the other [REDACTED] who were not as involved in research; however, she said that they could "find a way to find him when we need to." She said that she did not know of any occasions when [REDACTED] was absent during duty hours without taking leave.

(b) (7)(C)

#### *Alleged Improper Timecards*

In reference to an allegation that the Chairman of the [REDACTED] [REDACTED] who was not a VA employee, improperly signed [REDACTED]'s VA timecards, [REDACTED] told us that, as a [REDACTED] employee, he reported to the Chairman; however, he said that the Chairman never signed or certified his VA timecards. He said that [REDACTED] signed his VA timecards and approved his leave requests. The NJHCS Compliance Officer also told us that [REDACTED] signed [REDACTED]'s timecards and that alternate signers were the [REDACTED]'s Administrative

Officer, [REDACTED] and the [REDACTED] who were all VA employees.

(b) (7)(C)

The Compliance Officer also said that [REDACTED]'s timecard was processed through the electronic time and attendance system (T&L 073) and the [REDACTED] told us that the Chairman of [REDACTED] and Neurosciences did not have access to the T&L 073 system and therefore could not approve timecards and leave for VA employees.

Conclusion

We did not substantiate the allegation that [REDACTED] misused official time. We found that [REDACTED] who was on the faculty of the affiliated university, initially requested sick leave to work additional hours at the university; however, the NJHCS [REDACTED] instructed [REDACTED] to change his sick leave requests to annual leave. From April 2010 to May 2011, [REDACTED] with the COS's authorization, used annual leave to work at the university, which was not a misuse of earned leave. Further, [REDACTED] took corrective action to ensure that [REDACTED]'s leave was properly recorded and charged to his leave balances. We also found no evidence that [REDACTED] was otherwise absent from his VA duty station without authorization.

(b) (7)(C)

We also did not substantiate the allegation that the Chairman of [REDACTED] improperly signed [REDACTED]'s VA timecard. We found that [REDACTED]'s timecards were processed electronically; that the Chairman did not have access to the NJHCS electronic time and attendance system; therefore, the Chairman could not approve [REDACTED]'s timecard.

We are closing this investigation without issuing a formal report or memorandum.

Prepared by: [REDACTED]

9/7/11  
Date

Approved by: [REDACTED]

9/7/11  
Date